

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

LEAH CHATT,)
Plaintiff,)
v.) Civil No. 05-346 Erie
JOHN E. POTTER, POSTMASTER)
GENERAL, U.S. POSTAL SERVICE)
AGENCY)
Defendant.)

ORDER

This action was filed on November 16, 2005, with a Motion for Leave to Proceed in forma pauperis by Plaintiff Leah Chatt. The motion was granted and the Complaint was filed on November 29, 2005.

On May 10, 2006, we dismissed this case without prejudice for failure to make service pursuant to Federal Rule of Civil Procedure 4(m) and this Court's Order dated April 10, 2006, directing Plaintiff to serve the Complaint and Summons on defendant no later than May 5, 2006. On May 15, 2006, Plaintiff filed a return of service indicating that service was effected on defendant on May 5, 2006. Because it appeared that Plaintiff had complied with Rule 4(m) and the Court's Order, we directed that this case be reopened.

Plaintiff's return of service filed May 15, 2006, shows that service was executed on the Defendant on May 5, 2006, by personal service at the United States Post Office, 2108 E. 38th Street. There is no indication that service was effected pursuant to certified mail.

Defendant John E. Potter, Postmaster General, U.S. Postal Service Agency is sued in this action as a representative of a United States Agency. To the extent that Plaintiff is suing an agency of the United States Government or an officer or employee of the United States in an official

capacity it appears that she has not properly effected service pursuant to Rule 4(i). To the extent that Plaintiff is suing an officer or employee of the United States in an individual capacity, she has failed to effect proper service upon Defendant sued in an individual capacity in the manner prescribed by Rule 4(i)(b) and Rule 4(e).

The following Order is therefore entered.

AND NOW, to-wit, this 10th day of July, 2006, it is hereby ORDERED, ADJUDGED, and DECREED as follows:

1. Plaintiff shall make proper service of the summons and complaint no later than August 21, 2006.
2. Plaintiff is HEREBY on NOTICE that failure to effect proper service of process by August 21, 2006, will result in dismissal of the action in accordance with Federal Rule of Civil Procedure 4(m).

Maurice B. Cohill, Jr.
Maurice B. Cohill, Jr.
Senior United States District Judge